

**U.S DEPARTMENT OF ENERGY
TRANSPORTATION EXTERNAL COORDINATION
WORKING GROUP MEETING**

**January 31-February 1, 2007
Atlanta, Georgia**

Rail Topic Group

Mr. Thrower (OCRWM/OLM) introduced Mr. Blackwell (FRA), who gave a presentation on the DOT Notice of Proposed Rulemaking (NPRM) HM 232E that was initially published December 21, 2006. The rulemaking requires rail carriers who transport carloads of more than 5 thousand pounds of 11, 12, or 13 explosives, bulk hazardous materials (TIH/PH), including (HRCQ RAM) radiological materials to:

- Collect annual data on routes to be used to transport these materials;
- Use data to analyze the safety and security risks of each route and the “next most commercially practicable route” considering no less than the minimum of 27 risk factors and choosing the safest and most secure routes. (It was noted that the 27 risk factors are not “weighted” factors. Many relate to the derailment rate; they are not entirely independent.);
- Need to mitigate and address specific safety/security concerns;
- Communicate and address transit delays with consignees; and
- Address en-route storage.

The discussion raised questions about the impact of the rulemaking on rail operations. AAR said they do not believe the rulemaking will substantially impact rail operations; rather it is intended to provide rail routing specifications. FRA will be accepting comments on the rulemaking. In the final rule, there should be preamble to explain issues in risk, which may have a significant impact on the rail routes. The final rule will place greater responsibility for risk analysis on the railroads, which could impact the ability of the states to select routes for nuclear waste. DOT is looking at rail routes carrying toxic inhalation materials through a participatory process, with few changes resulting from rail industry selections.

Participants asked whether there would be an evaluation of emergency response capabilities of states and local communities. A representative of BNSF noted that they were more concerned with local responder capabilities. He observed that since the proposed regulation will allow railroads to select primary and secondary routes, this will impact emergency response. Another participant observed that the railroads were always envisioned as having preeminent influence on route selection. Another participant noted that since DOE is providing funding for emergency response along the routes, and the rulemaking may impact the distribution of funding.

A participant stated that the railroads view DOE as a customer, for whom shipments will be made according to regulatory requirements. The final rule is expected to be issued in conjunction with TSA rule. The goal is to have them published by the end of fiscal year.

Review of Conference Call Notes and Task Plan

The Topic Group agreed that the May 2007 version of the Task Plan reflects changes from Atlanta. Reports were provided by the Subtopic Groups:

- ***Intermodal Subgroup*** – A conference call arranged for back up documentation to inform future discussions. The near-term focus will be on what the final work products will be. Issues of concern involve NEPA and supplemental EIS issues for the Yucca Mountain rail project. An update of task plan will occur once new group determines its intentions.
- ***Radiation Monitoring Subgroup*** – The Subgroup identified six objectives and will be holding a conference call and developing a Task Plan.
- ***Inspections Subgroup*** – The trucking system has good inspection process, but the Subgroup found that there is no comparable process for rail. The Subgroup assembled an inspection form and checklist using regulatory framework and have pared the form down to a more workable format. They plan to take it to the FRA State program managers meeting, provide a presentation, and obtain feedback to develop final recommended inspection forms. Once this occurs, these TEC activities will be completed. Once the forms/checklists are finalized, then the Subgroup plans to look at the transportation system as a whole.
- ***Tracking Subgroup*** – The Subgroup produced a report, analyzed technologies, and provided state views. DOE has been talking with IRIS about shipment tracking, and the Subgroup is interested in learning more about those discussions. They are examining these systems to determine their functionality. TRANSCOM functionality is good and meets state needs; however, TEC will need to continually monitor new technologies.
- ***Planning Subgroup*** – The Subgroup spent six months developing a planning timeline. The milestones will coincide with the draft NTP timelines.
- ***Escorts Subgroup*** – Subgroup will be put this issue on hold until OCRWM requirements are defined. This will be part of discussion in Security Topic Group.
- ***Lessons Learned Subgroup*** – Comments from previous shipping campaigns are incorporated into the document. Consideration may be given to combining other shipment campaign lessons learned into a comprehensive document. Comparative view with OCRWM benchmarking study will be made. Recommendations include the need for better communication and coordination in pre-shipment planning phases. It was noted that TEC representatives may be different from the Governor's designees for pre-shipment planning. Among recommendations made, it was acknowledged that

reconciliation of conflicting comments would occur prior to final publication of lessons learned documents.

Discussion Issues

Mr. Halstead (State of Nevada) prepared a brief paper with a list of potential intermodal shipping routes and issues, particularly identifying those sites from which shipments will occur in the first five years requiring intermodal transfers. Near reactor rail capability was noted as a concern. Participants suggested that NEPA documents currently being prepared will respond to some of these issues. It was also noted that international experience with nuclear material shipments, such as in France and Sweden, provides insight into need for dedicated equipment and badge roll-on/roll-off equipment. Participants raised concerns about the Nevada end for receipt of shipments, especially if no rail is provided. They agreed that the Intermodal Subgroup might explore these issues in greater detail.

A tribal representative expressed interest in the Rail Topic Group. Particular emphasis was raised with respect to pre-notification and communication in the pre-shipment phases.

Participants then discussed unresolved issues and the potential need for additional Topic Groups; however, it was agreed that on-going issues of the Subtopic Groups should be concluded prior to establishing any new groups. Mr. Thrower noted that many issues being raised are related to operations and may be best addressed in the context of a yet-to-be formed Operations Topic Group.

Brainstorming Issues

The principle area of discussion related to carrier contracts. Mr. Thrower referred to the on-going Aberdeen - Rockfish rate case involving the federal government and the Class 1 railroads. He is the OCRWM representative on the executive agency team on the case, and he mentioned that a recent settlement was reached with the Union Pacific Railroad, while agreements with other railroads are pending. Participants noted that provisions in the tariffs for various types of service may impact nuclear waste shipments despite the fact that shipments today are being conducted without a specific contract.

OCRWM has not determined at this date whether or not it will use these agreements. OCRWM has reviewed the experiences of other programs and recognized that railroad contractual privity with shipping client may preclude stakeholder involvement in rate discussions. OCRWM will look forward to building on the success of the railroads.